



TOWN OF BEAUX ARTS VILLAGE
PLANNING COMMISSION
MINUTES

February 13, 2008
Roberts

Present: Acting Chairperson Karen Scott, Commissioners Dennis Casey, Scott Harpster, Jake Donoghue and Gordon Roberts.

Excused: None

Staff: Deputy Town Clerk Angela Kulp and Town Planner Mona Green.

Guests: Town Council and Tree Committee Members Chair Carol Clemett and Bruce Young, Tree Committee Member Robin Stefan, Residents Peter Bowen, Ann Bowen, Dan Bridges, John Clemett, Paula Dix, Jim Finnell, Henry Heckendorn, Sylvia Hobbs, Helen Lewis, Jens Molbak, Julia Morse and Walter Scott.

Acting Chair Scott called the meeting to order at 7:35pm.

Minutes: Commissioner Roberts motioned to approve the January 17, 2008 minutes as written. Commissioner Harpster seconded. Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

The Public Hearing opened at 7:36pm.

Public Hearing for the Town Tree Committee:

Town Planner Green offered copies of the final draft of the proposed Tree Ordinance (dated 1/23/08) to those in attendance. Acting Chair Scott opened the hearing with Tree Committee Chair Clemett, who reviewed again for everyone's benefit the Town Council process, the Tree Committee history, and the current ordinance. She stressed slowing down the process, educating through an arborist, and fostering communications between neighbors as the focal point of this process. She reviewed all changes made to the ordinance since the last public hearing, and reminded the Commissioners they needed to decide for their recommendation: 1). Yes / No on having a Tree Ordinance, and if yes, 2). what form: as is, modified, or something different. Ms. Clemett went on to explain the Council would like to have a working meeting scheduled with one Commissioner and one Tree Committee member to explain their group's recommendations. That working meeting will follow at least ten days after the recommendations are made to the Council. Another public hearing for the Council would be scheduled following that working meeting.

Town Planner Green reviewed some rules about speaking, and Commissioner Harpster operated a three-minute timer. Acting Chair Scott then asked for residents in attendance to state their opinion, one at a time:

Resident Molbak stated that although he is a huge fan of trees, he feels there are significant, unintended consequences of root tree zones especially in Section 14. He shared his concern is the ambiguous language and would prefer an education focus. He also stated his concern for the power a town arborist would have if there was disagreement and concluded one size does not fit all with this ordinance. Mr. Molbak also stated that with this proposed ordinance, he would not have been able to landscape his yard the way he did and that the trees he planted would be subject to this ordinance in the future. .

Town Marshal and Resident Walter Scott shared his concern about the divisiveness this process takes, and encouraged the Planning Commissioners and Council members to stand their ground, respect each other and say what needs to be said without worrying about hurting feelings. He stated his concern about different arborist opinions, and shared he felt this ordinance is very unweilding for a village our size.

WABA Vice President and Resident Bridges thanked the Tree Committee and stated he was not against the ordinance, but was very concerned about trees taken without compensation. He pointed out a language contradiction problem on page 4, section G and inquired about the 14 day waiting period if discretion is removed, backing it up with a legal explanation.

Resident Peter Bowen shared he was pro-ordinance, and thought the eagles would slow down the tree cutting. Resident Ann Bowen pointed out this area was logged shortly before the village began, and now we have a forest- including the tall, diseased, and young coming up. She stated there is a need to manage the older trees, and keep editing the ordinance like a newspaper- no matter how cumbersome- to get to a version than can be passed.

Resident Heckendorn shared that he designed his house around trees coming up through his deck 45 years ago, and after sharing the personal history of his lot, pointed out there are now more trees on town property than private. He stated numerous times he favors a deed on the property for land use of the protected trees, and is concerned about the level of beauracracy and mounting costs expected to be associated with this new ordinance. He suggested the town share all costs with the homeowner.

Resident Hobbs stated the waiting period for removal of trees should be three weeks instead of two to allow for adequate notification if a neighbor was out of town. She continued that trees should not be allowed to be planted on Town Right-of-Way as an option, and hazardous trees should be mitigated over 1 year not 6 mos. She finished by stating she likes the ordinance and hopes it passes.

Resident Finnell stated the Town has no business dictating rules; he does not like the 14 days notification or the 20% rule. He continued he loves trees, but it's about his property rights not anyone else's business. He finished by stating this ordinance is overbearing and burdening beauracracy.

Resident John Clemett pointed out a lot of work has been done and the intent is correct to preserve and protect. If the wording is not exactly right, he suggested we start with an ordinance and correct later as needed.

Resident Morse thanked the tree committee and shared her embarrassment that the town's best efforts to educate have not been enough. She stated her concern for canopy coverage and that she's proud we are on the right track on that endeavor. She encouraged the group to keep working until it gets it right.

Resident Dix read the highlights of her own letter of record, giving suggestions on reworking the purpose and intent of the ordinance. She stated that hazardous trees should be counted as part of the 20% and not exempt (section 16) as it should not matter how a tree is lost. She asked that a replacement clause be added for what is unlawfully removed, and ended with her support for the ordinance.

Resident Lewis stated she would like to see stronger fences around trees for protection during construction, and a better definition of 'hazardous'. She also expressed her concern about the variance process with trees involved as possible criteria.

Tree Committee member Stefan reminded everyone that the committee thought long and hard on the 'landmark' definition, and just wanted to ask for the courtesy of communication, but not to take away any rights with significant trees.

Council and Tree Committee member Young reminded everyone that the Ordinance emphasizes the process so you can bring down a significant tree and it's not as restrictive as other jurisdictions.

Deputy Clerk Kulp read into the record letters from the Cowan's, the Leber's and the Leffingwell's. The Cowan's letter expressed support in the ordinance, and preserving large trees as part of the unique character of the village. The Leber's stated support for the ordinance and large trees, then focused on their belief of trees helping property values, not hindering it. The Leffingwell's expressed support of the tree ordinance in their letter as well. Residents Hobbs and Dix stated they had touched on the highlights of their letters adequately themselves.

Commissioner Donoghue inquired in the status of the "unscientific survey", and stated his concern about combining the town trees on this ordinance. Tree Committee member Stefan replied the survey was not published, and recommended a separate ordinance be done for the town trees.

The public hearing was closed at 9:04pm. To determine consensus, each Commissioner presented his or her own viewpoint.

Commissioner Harpster shared he'd done his own unscientific tree survey on 3 blocks closest to his home and realized we do have a lot of trees, and it seems there are more town trees than private. He also noted the current ordinance is almost as long as our land-use ordinance and maybe that's a sign we should keep it simple. He stated that

yes, we must regulate with an ordinance, but no, not this ordinance as it goes overboard and needs to be simplified. Mr. Harpster shared his support for education, a permit, no waiting, one for one replacement with an 8' size, protection for construction and land marked trees if identified.

Commissioner Roberts stated he likes trees but educating without an ordinance is impossible. He stated his belief of needing to pass it as a starting point, then modifying and tweaking afterwards as needed.

Commissioner Casey shared it is all about a village. He stated 26 years ago; people did not typically or frequently cut trees, move, or build. He continued the village is changing too quickly and there is a need now for regulation to control that and slow it down. He shared that he too believes this ordinance isn't perfect- in fact, he thinks it does not go far enough- but it's a start.

Commissioner Donoghue applauded the Tree Committee and their efforts. He stated he is against governing private property and feel this goes above and beyond what is needed. He shared he does feel it's getting better each time we revise it, and that we do need to protect the trees, but not rush this ordinance through. He continued this will take time, and the Commission should try to modify it now as it will be too difficult to modify later and therefore we should not send it to the Council yet.

Commissioner Scott thanked the Tree Committee and reiterated she does not like regulation. She stated she is not against an ordinance altogether, but she does have several issues with this one. She shared one problem is the value (or devalue) of one's property may be misunderstood and subjective; light is very important, too! She continued she is concerned about impacting root zones. She shared she doesn't trust arborists and would prefer to error on the side of taking the tree out over risking life and limb. She went on that the arborist step seems unnecessary if you are removing a tree anyway, and it seems an unnecessary level of bureaucracy to add unless the tree is hazardous. She acknowledged the ordinance has come a long way, but we are not there yet- this one still goes too far and if she were to support having an ordinance at all, it would need to be more flexible, and simplified.

Town Planner Green reminded there are other options to protect trees other than fencing, for example hand digging instead of using big machinery for erosion control, etc.

Commissioner Casey asked each Commissioner what they would change on this ordinance. Commissioner Donoghue stated a list of significant and landmark trees on each lot would be a good start. He also expressed his concern for how this information if being transferred to a homeowner. Tree Chair Clemett stated the Town Clerk would give each new owner a copy of the Tree Ordinance and copies of past tree permits for that lot. Commissioner Scott stated she would keep the permit process, but simplify the language and keep it down to two pages instead of eight pages. Commissioner Harpster concurred with Ms. Scott.

Commissioner Casey asked the Commissioners where do we go from here. Commissioner Harpster stated it sounds like we are all in favor of an ordinance, but not this one. Commissioner Scott corrected she's not sure she's in favor, but if she were, it would have to be much more simplified. Commissioner Casey asked, do we involve the Tree Committee? Commissioner Scott stated the Commissioners can do it without the Tree Committee. Deputy Clerk Kulp pointed out Mona guides the Commissioners, she has also guided the Tree Committee from the beginning and she wrote the Ordinance. Town Planner Green clarified why flexibility was added to the Ordinance, and it took the Tree Committee several months to get this far, so she doubted the Commissioners could take it over and fix it in one meeting.

Commissioner Casey proposed the Town Council extend the moratorium while the Planning Commission evaluates options, but no one seconded. One by one, they said they could not support a moratorium at this point, and Ms. Green expressed some concern for the timing and even possibility of a moratorium even if the Commission wanted it. WABA VP Bridges interjected WABA support of a moratorium, and Council member Clemett urged him to take up WABA's concern at the March Town Council meeting instead.

The Commissioners reached a consensus to furthering their discussion of their recommendation, which is yet to be determined, at their next meeting.

Next Meeting: The next meeting will be on Thursday, March 20, 2008 at 7:30pm at Commissioner Donoghue's home.

Adjourn: Acting Chair Scott motioned to adjourn the meeting at 10:02pm. Commissioner Harpster seconded. Vote: 5 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Angela Kulp
Deputy Town Clerk